

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et  
al.*,

Debtors.

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO SALES TAX FINANCING  
CORPORATION,

Debtor.

PROMESA  
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

PROMESA  
Title III

No. 17 BK 3284-LTS

**INFORMATIVE MOTION OF THE GMS GROUP, LLC REGARDING CROSS-  
EXAMINATION OF WITNESSES IN THE JANUARY 16-17, 2017 HEARING**

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*Attorneys for The GMS Group, LLC*

Dated: January 10, 2019

The GMS Group, LLC (“GMS” or “Secured Creditor”), respectfully shows the Court as follows:

1. GMS timely filed an Objection to the Confirmation of the Plan of Adjustment and a Supplement to the Objection along with a Joinder to the Peter Hein Objection.
2. GMS also submitted several declarations in support of said filings.
3. On January 9, 2018, this Honorable Court entered an Order regarding the procedures to appear and present witnesses on the hearing scheduled for January 16-17, 2019 (the “Order”). Dkt. 4647
4. The Order states that “[t]he Court will review all declarations that have been submitted in either support of or opposition to the Hearing Matters in advance of the Hearing. All such declarations are deemed submitted as direct testimony.” Dkt. 4647.
5. The Order then states that “[a]ny proponent of or timely objector to any of the Hearing Matters who contends there is a disputed material factual issue and wishes to cross-examine any declarant or to present live rebuttal testimony at the Hearing must file an Informative Motion identifying the relevant Hearing Matter, the witness or witnesses, the factual issue(s) to which the proposed cross-examination or testimony relates, the subject matter of the testimony and its relevance to the factual issue(s), and the time requested for such examination

*or testimony, no later than January 10, 2019, at 12:00 p.m. (Atlantic Standard Time). ” Dkt. 4647.*

6. Debtor requested an extension of time to file declarations in support of their motions and this honorable Court granted until January 12, 2019 at 4:00pm. Dkts. 4679 & 4707.

7. In view of the extension of time requested by Debtor, GMS requested until January 14, 2019 at 12:00pm to inform whether it would cross examine any of the declarants submitted by the Debtor or the Senior Bondholder Coalition. Dkt. 4731. The Court granted the request on January 11, 2019. Dkt. 4750.

8. Debtor<sup>1</sup> and the Senior Bondholder Coalition<sup>2</sup> submitted Declarations in support of their Replies and their requests for confirmation of the Plan of Adjustment.

9. In compliance with the Order, ***GMS hereby announces that it reserves the right to cross-examine Mathew Rodrigue*** as to the factual issues submitted in his declaration. The cross-examination, if necessary, will be related to the approval of the settlement between COFINA and the Commonwealth and the approval of the Third Amended Plan of Adjustment, including insofar as the settlement is a component of the Third Amended Plan of Adjustment.

10. In addition, ***GMS reserves the right to cross-examine David M. Brownstein*** on the same subjects and factual issues as Mr. Rodrigue depending on the answers provided by Mr. Rodrigue.

11. The testimony is relevant to both controversies, since the settlement and the Plan cannot be approved under false pretenses.

12. The cross-examination will be on the following factual issues:

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<sup>1</sup> Debtor submitted declarations from \_\_\_\_ and \_\_\_\_.

<sup>2</sup> The Senior Bondholder Coalition submitted a declaration from Mathew Rodrigue.

- (a) The hypothetical recovery of Senior Bondholders and Junior Bondholders on a *pari passu* basis and the assumptions;
- (b) The claimed diminution of value for juniors based on senior “make whole” premium;
- (c) The participation and representation of Junior Bondholders in the negotiated settlement;
- (d) The basis for implied probability of recovery of the bonds;
- (e) The basis for the analysis of the recovery if lien litigation is lost and what the actual recovery could be;
- (f) The implied yield to worst sensitivity;
- (g) The lock-up agreement impact on non-signers;
- (h) The difference between the old COFINA lien and the new CONFINA lien in as much as they are the same in basis and structure;
- (i) The actual devaluation of other Municipal Bonds in light of the challenge to the COFINA lien;
- (j) The problem small investors will face trading the New Bonds in light of the new bond structure.

13. GMS reserves the right to expand on those factual issues depending on the witness answers.

14. GMS estimates that the cross-examination of Mathew Rodrigue, if necessary, should not take more than three (3) hours<sup>3</sup>.

15. GMS Group, LLC also reserves the right to respond to any statements made by any party in connection with the above-captioned jointly administered Title III cases.

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<sup>3</sup> This is an estimate and may vary depending on the answers provided by the Witness and his willingness to provide cogent answers.

**WHEREFORE**, The GMS Group, LLC respectfully requests that the Court take note of the above and deem that The GMS Group, LLC has properly and timely complied with this Court's Order of January 9, 2018 regarding the announcement of witnesses.

Dated: New York, New York

January 14, 2019

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